

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

REQUEST FOR BILL ANALYSIS

CHP 3 (REV. 9-05) OPI 012

ROUTE TO		DATE/INITIAL	DATE	SUSPENSE DATE
C	CVS		4/18/06	4/28/06
			BILL NUMBER	
			S 2589	
			ORIGINAL DATE (AS INTRODUCED)	
Special Representative			4/6/06	

BILL ANALYSIS REQUESTED FROM

<input type="checkbox"/> OIA	<input type="checkbox"/> PSD	<input type="checkbox"/> PSS	<input type="checkbox"/> TELECOM	<input type="checkbox"/> COMS	<input type="checkbox"/> FOS	<input type="checkbox"/> ACD
<input type="checkbox"/> OER	<input type="checkbox"/> OGC	<input type="checkbox"/> SSES	<input type="checkbox"/> RPS	<input checked="" type="checkbox"/> CVS	<input type="checkbox"/> BSS	<input type="checkbox"/>
<input type="checkbox"/> OMR	<input type="checkbox"/> OLA	<input type="checkbox"/> DRS	<input type="checkbox"/> SPS	<input type="checkbox"/> FSS	<input type="checkbox"/> FAC	<input type="checkbox"/>
<input type="checkbox"/> OAO	<input type="checkbox"/> HSPS	<input type="checkbox"/> BIT	<input type="checkbox"/> EOS	<input type="checkbox"/> FMS	<input type="checkbox"/> DTD/OSU	<input type="checkbox"/>

1. SUMMARY:

This bill would raise the potential number of shipments of spent nuclear fuel and other nuclear waste. This bill would give the Department of Energy (DOE) the authority to transport shipments of this material in whatever manner they deemed appropriate. Additionally, this bill would leave DOE to regulate, ship, and escort themselves without any input from state or local governments.

2. ANALYSIS:

A. Policy:

1. Current Law

Current law provides several statutes and regulations in the Vehicle Code (VC), Title 13 of the California Code of Regulations (13 CCR), Title 49 of the Code of Federal Regulations (49 CFR), as well as Sections from the U.S. Government Code for the regulation of hazardous materials/hazardous waste transportation by making requirements relating to: shipping papers, markings, labels, placards, emergency response information, packaging, loading, segregation, and security of hazardous materials.

2. Proposed Changes

Section 4 of this bill would eliminate the capacity limitation at the Yucca Mountain Repository which is currently set at 70,000 metric tons. Section 6 of this bill states no federal, state or local government requirement applies to any material owned by the Secretary of Energy provided the material is stored or transported in a package which has been certified by the Nuclear Regulatory Commission. This section of the bill, alone, would eliminate the state's ability to regulate the transportation of nuclear waste using Division 14.1 VC (Transportation of Hazardous Material) or Division 14.5 VC (Transportation of Radioactive Materials). No state would have the authority to regulate these shipments to the use of specific California routes as mandated in 13 CCR, Section 1159. And states would be unable to require the reporting of a spill as mandated in 13 CCR, Section 1166. Furthermore, Section 7 of this bill would add Section 181 to the Nuclear Waste Policy Act of 1982 (to be inserted after 42 USC, Section 10175). If passed, this section would allow the Secretary of Energy to determine the extent to which any transportation of these shipments may be regulated exclusively under the Atomic Energy Act of 1954, which makes little reference to transportation and does less to regulate it. Additionally, Section 7 of this bill gives the Secretary of Transportation, upon request of the Secretary of Energy, the authority, to preempt any state or local requirement.

B. Fiscal Impact:

- ☒ No
☐ Yes (Explain/Quantify)

Federal, state, and local government agencies are exempted from the requirements for a Hazardous Material Transportation License listed in 32000.5 VC, so the added exception DOE has allowed themselves would have no fiscal impact on the Department.

C. Economic Impact: (To include impact on California industry and other state departments)

This bill addresses spent nuclear fuel and nuclear waste at various stages, including transportation. The elimination of the current capacity limitation of the Yucca Mountain Repository could only mean the anticipation of additional shipments which would lead to additional risk of exposure due to a spill. There is no indication DOE would accept responsibility for mishaps which may occur during storage or transportation of

spent nuclear fuel or other nuclear waste which leaves individual States and local governments to manage, mitigate, and pay for such events. Such potential costs would be virtually impossible to forecast due to the multitude of variables including the size of the spill, the location, and the surrounding population and land uses.

3. SUBJECT HISTORY: (To include similar statutes in Oregon, Nevada, Arizona, Florida, Texas, New York, Michigan, and Pennsylvania)

This is a federal bill and would affect all states simultaneously.

4. PRO AND CON:

A. Arguments in Support of the Bill:

This bill would ensure DOE could transport shipments of spent nuclear fuel and other nuclear waste much like they currently transport weapons grade material. It would minimize the number of agencies involved with these shipments, which would reduce the likelihood of conflicting regulation or operation procedures.

B. Arguments in Opposition to the Bill:

This bill would leave DOE to self-regulate. The inability for states to regulate the routes these shipments take would leave the Department powerless to ensure the safety of densely populated areas. The potential for a dramatic increase in the number of shipments transported through the state increases the risk of incidents involving the spilling of nuclear waste.

5. SUPPORT AND OPPOSITION:

The DOE will likely support this bill as well as a few nuclear advocacy groups such as the Nuclear Energy Institute.

Opponents to the bill will likely include a multitude of state and local agencies across the country. The governor of Arizona, on behalf of the Western Governors Association, has already written a letter to the bill's author to voice opposition. The governor of Oregon has also written the Secretary of Energy to voice opposition to the transportation section of this bill.

6. RECOMMENDED POSITION/JUSTIFICATION:

☐ Support ☐ Support if Amended ☐ Neutral ☐ Neutral if Amended ☒ Oppose ☐ Oppose Unless Amended ☐ Defer
(If SA, NA or OUA are checked, include the appropriate amendment language)

The Department should vehemently oppose this bill as it would allow for a dramatic increase the number of shipments of spent nuclear fuel and other nuclear waste traveling through the State of California, and therefore increases the potential for incidents involving a release of radioactivity. There is no mention of management, mitigation or payment for a mishap involving the spill of nuclear waste. This bill would leave the Department powerless to regulate any part of these shipments as the statutes and regulations found in 13 CCR, 49 CFR, and the VC will be unenforceable. This bill would leave DOE to self-regulate, without interference from any state or local government.

PREPARED BY: J. McNeill			DATE PREPARED: 4/26/06
REVIEWED BY: T. TYLER	DATE: 4/28/06	APPROVED BY:	DATE:
DIVISION APPROVAL:			DATE: